

21 C.J.S. Courts § 126

Corpus Juris Secundum | May 2023 Update

Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

III. Creation and Constitution; Officers of Courts

B. Nonjudicial Officers and Employees Generally; Interpreters

2. Probation Officers

§ 126. Duties

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The authority and duties of a probation officer are determined by statute or by the court.

The duties and authority of a probation officer are such as may be conferred on the officer by statute¹ or by the court appointing the officer.² The duties of each probation officer are defined and informed by the specific instructions of the sentencing judge, which are to be found in the judge's conditions of probation.³ As an officer of the court, a probation officer's primary duty is to represent the interest of justice.⁴

Generally, the powers and duties of probation officers are extremely broad.⁵ It is their duty to assist the court;⁶ to furnish to it such information as it may require,⁷ such as presentence reports;⁸ and to make such investigations as may be necessary.⁹ A probation officer has authority to make arrests only when such power is incidental or necessary to the performance of the officer's duties.¹⁰

While a probation officer has a duty to supervise probationary sentences,¹¹ the duty of a probation officer to supervise the activities of a probationer does not include the obligation to take charge of or have custody of the probationer.¹² It is not a probation officer's duty to follow each probationer to prevent the probationer from harming others.¹³ Probation officers are not the guarantors or insurers of the safety of each and every person probationers may come into contact with.¹⁴ However, when a probation officer is required to monitor a probationer for compliance with the conditions of probation, a duty arises on the part of the officer to use reasonable care in supervising a probationer whose dangerous propensities pose a reasonably foreseeable danger to others.¹⁵

Probation officers have no authority to bind the state in plea bargain negotiations.¹⁶

CUMULATIVE SUPPLEMENT

Cases:

Probation conditions precluding probationer, who had been convicted of embezzlement, from taking employment involving handling money without probation officer's written permission, and requiring probationer to provide employment information to probation officer, did not impose duty, beyond duty of reasonable care, on supervising officials to monitor probationer's compliance with conditions, and economic-loss rule thus precluded holding corrections department and probation officer liable in negligence for employer's purely economic losses caused by embezzlement by probationer, where probation conditions imposed duties on probationer, not on supervising officials, and officials were not parties to sentencing order, which was from different county. [Diamond Heating, Inc. v. Clackamas County](#), 316 Or. App. 579, 505 P.3d 4 (2021).

[END OF SUPPLEMENT]

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Footnotes

- 1 Ill.—[People ex rel. Gauss v. Chicago, B. & Q.R. Co.](#), 273 Ill. 110, 112 N.E. 278 (1916).
- 2 Ill.—[People ex rel. Gauss v. Chicago, B. & Q.R. Co.](#), 273 Ill. 110, 112 N.E. 278 (1916).
- 3 Mass.—[Com. v. MacDonald](#), 435 Mass. 1005, 757 N.E.2d 725 (2001).
- 4 Ga.—[Huzzie v. State](#), 253 Ga. App. 225, 558 S.E.2d 767 (2002).

- 5 Minn.—Matter of Johnson, 358 N.W.2d 469 (Minn. Ct. App. 1984).
- 6 Ind.—Seals v. State, 700 N.E.2d 1189 (Ind. Ct. App. 1998).
- 7 Cal.—Nicholl v. Koster, 157 Cal. 416, 108 P. 302 (1910).
- 8 Ariz.—State v. Pima County Adult Probation Dept., 147 Ariz. 146, 708 P.2d 1337 (Ct. App. Div. 2 1985).
N.J.—Passaic County Probation Officers' Ass'n v. Passaic County, 73 N.J. 247, 374 A.2d 449 (1977).
- 9 Ill.—Witter v. Cook County Com'rs, 256 Ill. 616, 100 N.E. 148 (1912).
- 10 W. Va.—State ex rel. Hall v. Monongalia County Court, 82 W. Va. 564, 96 S.E. 966 (1918).
- 11 Ariz.—State v. Pima County Adult Probation Dept., 147 Ariz. 146, 708 P.2d 1337 (Ct. App. Div. 2 1985).
N.J.—Passaic County Probation Officers' Ass'n v. Passaic County, 73 N.J. 247, 374 A.2d 449 (1977).
- 12 La.—McIntyre v. St. Tammany Parish Sheriff, 844 So. 2d 304 (La. Ct. App. 1st Cir. 2003).
- 13 La.—McIntyre v. St. Tammany Parish Sheriff, 844 So. 2d 304 (La. Ct. App. 1st Cir. 2003).
- 14 La.—McIntyre v. St. Tammany Parish Sheriff, 844 So. 2d 304 (La. Ct. App. 1st Cir. 2003).
- 15 Wash.—Bishop v. Miche, 137 Wash. 2d 518, 973 P.2d 465 (1999).
- 16 Tex.—Bouldin v. State, 100 S.W.3d 355 (Tex. App. San Antonio 2002).

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